

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
FILE NO. 4:14 CV 151-D

TOWN OF BELHAVEN, NC; and )  
THE NORTH CAROLINA NAACP )  
STATE CONFERENCE OF BRANCHES, )  
THE HYDE COUNTY NAACP BRANCH, )  
and THE BEAUFORT COUNTY NAACP )  
BRANCH, )

vs. )

PANTEGO CREEK, LLC and )  
VIDANT HEALTH, INC., )  
\_\_\_\_\_  
Defendants. )

**MOTION TO DISMISS IN LIEU OF  
ANSWER  
(F. R. Civ. P. 12(b)(6))**

NOW COMES Defendant Pantego Creek, LLC (“Pantego”), by and through the undersigned counsel, and hereby respectfully moves this Court for an order dismissing the claims against it, pursuant to Rules 12(b)(6) of the Federal Rules of Civil Procedure.

In support of this Motion, Pantego submits that Plaintiffs have failed to state a claim upon which relief can be granted, and directs this Court’s attention to the Memorandum in Support of this Motion filed contemporaneously herewith.

WHEREFORE, Pantego hereby moves this Court for an order dismissing Plaintiffs’ claims pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

Respectfully submitted this 3<sup>rd</sup> day of October, 2014.

By: /s/Scott C. Hart  
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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **MOTION TO DISMISS IN LIEU OF ANSWER** was electronically filed with the Clerk of Court using the CM/ECF System, and that I have mailed a copy by First-Class Mail, postage prepaid, to the following non-CM/ECF participants, addressed as follows:

John B. Tate III  
P.O. Box 700  
Chocowinity, NC 27817

Alan McSurely  
109 N. Graham St., Suite 100  
Chapel Hill, NC 27516

I further certify that the Clerk of Court using the CM/ECF System, will send notice of such filing to the following registered CM/ECF users:

Gary S. Qualls  
Susan Hackney  
Kathryn F. Taylor  
430 Davis Drive, Suite 400  
Morrisville, NC 27560

This the 3<sup>rd</sup> day of October, 2014.

By:   /s/Scott C. Hart  
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